

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

YVONNE JAKUBOWSKI,

Plaintiff,

Hon. Robert Holmes Bell

v.

File No. 1:11-cv-597

TRIANGLE COATINGS, INC.,
a California corporation, and
MOSAIC MERCHANTILE, INC.,
a Montana corporation, and
HOBBY LOBBY STORES, INC.
an Oklahoma corporation, and
MICHAEL YABLON, individually,

Defendants.

Michelle McLean (P-71393)
Jeannine L. Bolhouse (P-71636)
Attorneys for Plaintiff
Grandville State Bank Building
3996 Chicago Dr. SW
Grandville, MI 49418
(616) 531-7711

Eugenie B. Eardley (P-48615)
Eardley Law Offices, P.C.
Attorney for Defendant,
Triangle Coatings, Inc.
P.O. Box 830
Cannonsburg, MI 49317-0830
(616) 874-2647

Gary L. Stec (P-32234)
Harvey Kruse, P.C.
Attorney for Defendant Hobby Lobby
60 Monroe Center, N.W., Ste 500B
Grand Rapids, MI 49503
(616) 771-0050

Cleo N. Fekaris (P-61731)
Forman Perry Watkins Krutz & Tardy LLP
Attorney for Defendants Mosaic Mercantile,
Inc. and Michael Yablon
17199 N. Laurel Park Drive, Ste 314
Livonia, MI 48152
(734) 591-0454

AFFIDAVIT

I, Ned Kisner, being first duly sworn, having personal knowledge of the facts stated herein, state that I am able to testify regarding same, hereby state and depose as follows:

- 1) I am the CEO and owner of Triangle Coatings, Inc., with locations at 4763 Bennett Drive, Livermore, 94551 California since 2010, and another location at 1930 Fairway Drive, San Leandro, California, which we have had since 1984.

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- 2) I have owned and operated and acted as president of the company since 1981, and made all decisions regarding all products.
- 3) My company makes various forms of specialty paints and coatings.
- 4) In approximately in 1998 we did manufacture a grout for another company Mosaic Mercantile, Inc., which they sold under their name and label, but we have never manufactured the grout sealer and primer in the bottles depicted in the photos attached to the lawsuit filed in this case on June 8, 2011.
- 5) From approximately 1998-2002 we did manufacture a grout for Mosaic Mercantile, Inc, but it was sold under their name, and came in small white square plastic bottles similar to women's cosmetic make-up containers.
- 6) Based on my knowledge of the history of my company, Triangle Coatings, Inc. has never made the grout primer and sealer at issue in this case, and did not make the product complained of, nor did we distribute it for any other company.
- 7) My company did manufacture, approximately five years ago, a "grout glaze" a type of sealer, that was sold under the name of Triangle Coatings, Inc., but we have not since that time.
- 8) At the time of the alleged incident in the complaint, June 2008, our company's grout glaze product was packed in a plastic pouch, not in bottles, and was labeled as "grout glaze" not primer or sealer as depicted in the photos attached to the Complaint.
- 9) An employee of mine at the San Leandro location, plant superintendent, Oscar Angel did appear to have signed a green card for the lawsuit on June 27, 2011, and then it was sent to me at the Livermore plant.
- 10) I do not recall the exact date I first saw the actual lawsuit itself, but it was sometime after June 27, 2011.
- 11) I realized that the product being complained about in the lawsuit was not something we ever manufactured, and I had just returned from a business trip to China in July 2011.